IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION NO : 855 of 1998

Between:

Madarapu Babji, S/o. M.Bhaskar Rao,
R/o. Pidatamamidi, Gangavaram,
East Godavari District.

..... PETITIONER

AND

1 The District Collector, East Godavari District.
Kakinada, East Godavari District.
2 Special Deputy Collector,
Tribal Welfare, Rampachodavaram, East Godavari District.
3 The Mandal Revenue Officer,
Gangavaram, East Godavari District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue order or orders, direction or directions, Writ or Writs, Particularly one in the Nature of "WRIT OF MANDAMUS" and declare the action of the respondents in evicting the petitioner from the Schedule lands i.e., Ac. 11.52 cents in R.S.No. 48 in pidatamamidi, Yellavaram Mandalam, West Godavari District is illegal , arbitrary and against the provision of Andhra Pradesh schedule Area (Schedule Areas) Land Transfer Regulation 1/59 as amended by land transfer regulation 1/70 and Art 300A of The Constitution of India.

Counsel for the Petitioner: Mr. K.L.N.SWAMY

Counsel for the Respondents: GP FOR SOCIAL WELFARE

The Court made the following :

ORDER:

This Writ Petition is directed questioning the action of the respondents in evicting the petitioner from the schedule lands, i.e., an extent of Ac.11.52 cents in R.S.No.48 in Pidatamamidi, Yellavaram Mandal, West Godavari District, as illegal, arbitrary and against the provisions of the A.P. Schedule Area (Schedule Areas) Land Transfer Regulation 1/59 as amended by Land Transfer Regulation 1/70 (for short, "the Act") and Article 300-A of the Constitution of India.

2. According to the petitioner, his grand mother, late Bullemma was the pattadar of the land of an extent of Ac.11.52 cents in Survey No.48 of Pidatamamidi village, Yellavaram Mandal, and she was in continuous possession of the same till her death. After the death of her son, by name, Subbarao, the petitioner's grand mother executed a registered settlement deed dated 20-11-1944 in favour of the petitioner's mother, as she is the only legal heir of the said Bullemma. Subsequently, after the death of her mother, the petitioner inherited the said property and thus, he is in uninterrupted possession of the said property. When the then Deputy Tahsildar for Tribal Welfare, Pidatamamidi village, Yellavaram mandal, filed a complaint before the Deputy Collector, Tribal Welfare under Section 3 of the Act, contending that the said transfer in favour of the petitioner is contrary to the provisions of the Act, after holding an enquiry, the then Deputy Collector (Tribunal Welfare) Rajahmundry dismissed the said complaint by his order dated
01-09-1982 in L.T.R.P.No.177 of 1982. Be that as it may, according to the petitioner, on 05-01-1998, the 3rd respondent, i.e. the Mandal Revenue Officer again visited the petitioner's land and informed him that as the mother of the petitioner is no more, he is not entitled for any transfer of land and asked him to vacate the said land forthwith with an intention to assign the same to tribals.

3. This Court, while issuing Rule nisi, by its order dated
12-01-1998, directed the respondents not to dispose of the petitioner.

4. The main thrust of the contention of the learned counsel for the petitioner is that the said action of the 3rd respondent is not only contrary to the provisions of the Act, but also violative of principles of natural justice as no notice is served on the petitioner. In that view of the matter, without expressing any view and without going into the merits of the case, I deem it appropriate to direct the respondents to put the petitioner on notice before initiating any action and then only they can proceed

further in accordance with law.

5. Accordingly, this Writ Petition is disposed of.

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GOPALAKRISHNA TAMADA)

13th December,2004.

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To

1. The District Collector, East Godavari District.
   Kakinada, East Godavari District.
2. The Special Deputy Collector,
   Tribal Welfare, Rampachodavaram, East Godavari District.
3. The Mandal Revenue Officer,
   Gangavaram, East Godavari District.

4. Two CCs to the GP FOR SOCIAL WELFARE, High Court of A.P.,

Hyderabad (O.U.T.).

5. Two CD Copies.